



Legal Redeployment and Demobilization Briefing



Briefing Overview

- Uniformed Services Employment and Reemployment Rights Act (USERRA)
- Service members' Civil Relief Act (SCRA)
- Income Tax
- Claims
- Powers of Attorney



- Standard Protections.
- How to get your job back.
- Special Demobilization Protections.
- What to do if employer doesn't comply.



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USERRA: Four Standard Protections

1. No job discrimination based on military service
2. No mandatory use of vacation time or vacation pay for military duty
3. No retaliatory action (Does not apply to misconduct by employees)
4. Reemployment after mobilization or other active service



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USERRA: How to get your job back

Step 1: Give Advance Notice! (Written notice smart but not required)

Step 2: “Under Honorable Conditions!”
(present DD 214)

Step 3: 5 Years or Less Cumulative Military Service

Step 4: Report Back Promptly



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USERRA: Reemployment Protections

Protection #1: Be promptly reinstated

Protection #2: Keep same status

Protection #3: Keep accrued seniority

Protection #4: Health insurance coverage reinstated

Protection #5: Receive training, re-training, or other accommodations

Protection #6: Special protection from discharge

Protection #7: Keep other non-seniority based benefits



USERRA: Information & Enforcement

Where to Go for Help:

General Information:

Legal Assistance Attorney

National Committee for Employer Support of Guard and Reserve: *1-800-336-4590 or www.esgr.org*

Enforcement:

The Veterans' Employment and Training Service (VETS): *1-866-4-USA-DOL (1-866-487-2365) or www.dol.gov/vets*

Private civil action



Servicemembers' Civil Relief Act

What protections and rights are available under the SCRA?

- Reduction of Credit Interest Rates
- Continuation of Court Actions
- Avoiding Repossession or Foreclosure
- Termination of Leases
- Reinstatement of Health Insurance



Service members' Civil Relief Act

Who is Granted SCRA Protections?

- Any Active Duty Service member
 - Includes Reserve Component mobilized to active duty
- Some Protections Granted to Dependents of Service members
- Do Not Waive these Protections!



Maximum Interest Rate of 6%

- Applies to Pre-Military Service Obligations
- Still Possible: Must Apply within 180 days After Release from Military Service
- Written Notice to Creditor + Copy of Orders
- Excess Interest Forgiven -- not Accrued



SCRA: Stay of Civil Proceedings

What Can I Do if Someone is Suing Me?

- See a Legal Assistance Attorney
- Applies only to Civil Actions
 - Includes Administrative Hearings
 - Any Actions Commenced within 60 days after REFRAD
- Extended Time to Respond
 - Automatic stay for 90 days upon request
 - Additional time may be granted by judge
- Extended Time to Commence Action on Your Own Behalf



SCRA: Default Judgment

What if a Judgment was Obtained Against Me?

- Set Aside Default Judgment
 - If judgment entered without your knowledge
 - Military service materially affected your defense
 - You have a meritorious defense in the action
- Request relief within 90 days after release from active duty

SCRA: Repossession & Foreclosure

What Can I Do if My Car Was Repossessed and My House is in Foreclosure?

- See a Lawyer.
- Self-Help Repossession from activated military is prohibited.
- Repossession or foreclosure of mortgage prohibited
 - While on active duty
 - Military service materially affected your defense
 - Foreclosures not in compliance with SSCRA if made during the period of military service or within 3 months thereafter.
- Storage liens may not be enforced, except by court order



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SCRA: Private Health Insurance Plans

- SCRA Requires Reinstatement of Non-Employment Health Insurance. (See USERRA for Employment Health Coverage)
- Must apply within 120 days after release from military service
 - No Exclusions
 - No Waiting Periods*
- See a Legal Assistance Attorney

*Some exceptions.



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Income Taxes: Overview

- **Extensions of Deadlines**
- **Tax Relief**



Tax Extensions: How Long?

- Total Time of Extension:
= 180 Days from Last Day in CZ or QHDA
+ number of days from deploy date to 15 April
- Or until last day of continuous hospitalization for injury from service in CZ or QHDA
- Example:
 - Deployed to CZ 15 Mar 2004; Left CZ on 1 May 2005
 - Must File 2004 Tax Return NLT 1 Dec 2005



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Tax Extensions: For What?

- Filing Your Return/Claiming a Refund.
- Paying any Taxes Owed (Except Withholding and Employment Tax).
- Making an IRA Contribution.
- Tax Benefits of Selling a Residence.



Tax Relief: Who

- Armed forces members who serve in a CZ or QHDA
 - Iraq and Kuwait are CZ.
- Armed forces members who serve in direct support of a CZ or QHDA.
- Spouse may be entitled to extension as well.

Tax Relief: What is

- Exclusions from Gross Income
 - Base Pay earned in CZ or QHDA
 - All base pay for enlisted personnel and warrant officers
 - Base pay for officers limited to highest rate of enlisted pay (e.g., \$6090.90/month for SMA during 2004)
 - Entire month's pay is nontaxable, if present one day in CZ or QHDA during that month
- Military pay remains subject to Social Security and Medicare taxes

Tax Relief: What Else Is Not

- Non-Taxable Benefits: IDP/HFP
- Leave earned while in CZ or QHDA
- Pay received while hospitalized for injuries incurred in CZ (subject to certain time limitations)
- Other incentives, such as Reenlistment Bonus



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Tax Relief: When Do I

- For any month of the year:
- Were you present, for even one day, in a CZ or QHDA?
- Was your presence there official?
- If “YES,” then NO tax is owed on military pay for those specific months.



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Tax Relief: Your Tax Return

Write “OIF” or “OEF” and
dates of deployment on
the top front of your tax
return.

- If your personal property has been lost, damaged or destroyed as a result of government shipping, you may make a claim.
- You must DOCUMENT the Claim.
- HIGH DOLLAR items acquired in theater will probably not be paid for.



- Review all POAs
 - “Does my spouse/family member/friend still need this?”
- If not, consider revoking the POA.
 - Notify the Holder of the POA.
 - Recover and destroy the original document.
 - Publication of Notice



- www.jagcnet.army.mil
- The National Committee for Employer Support of Guard and Reserve (1-800-336-4590 or visit www.esgr.org).
- The Veterans' Employment and Training Service (VETS) (1-202-693-4701).
- Your local legal assistance office